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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO
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EXAMINER

ART UNIT	PAPER NUMBER
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22

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08 444,994

Applicant(s)

Palese et al.

Examiner

Jeffrey S. Parkin, Ph.D.

Group/Art Unit

1648



X Responsive to communication(s) filed on 15 Apr 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

X Claim(s) 1-17 and 46-56 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) _____ is/are rejected.

Claim(s) _____ is/are objected to.

X Claims 1-17 and 46-56 are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved _____ disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All _____ Some * _____ None _____ of the CERTIFIED copies of the priority documents have been received

received in Application No. (Series Code/Serial Number) _____

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Restriction Requirement

Status of the Claims

1. Acknowledgment is hereby made of the response submitted 15 April, 1999, wherein claims 1 and 2 were amended and new claims 46-48 were submitted. Claims 1-17 and 46-56 are pending. Applicants are reminded that pursuant to 37 C.F.R. § 1.142 a restriction requirement "may be made at any time before final action in the case, at the discretion of the examiner."

Fax Response Pilot for

Written Restriction Requirements

2. In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is (703) 305-3794. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. **Please limit the use of this dedicated Fax number to responses to Written Restrictions.**

Restriction/Election

a. Restriction to one of the following inventions is required under 37 C.F.R. § 1.21:

a. Group I, claims 1-9, 11-17, and 48 drawn to an assay for identifying inhibitors of influenza virus **nucleoprotein**-host cell protein binding interactions, classified in class 437, subclass 5.

b. Group II, claims 1, 9-17, and 48 drawn to an assay for identifying inhibitors of influenza virus **NS1**-host cell protein binding interactions, classified in class 437, subclass 1.

1. Group III, claim(s) 46 and 47, drawn to an assay for identifying inhibitors of **viral protein-host cell viral transport protein** binding interactions, classified in class 435, subclass 5.

5 i. Group IV, claim(s) 48 and 49, drawn to an assay for identifying inhibitors of **parainfluenza virus** protein-host cell protein binding interactions, classified in class 435, subclass 5.

10 e. Group V, claim(s) 49 and 50, drawn to an assay for identifying inhibitors of **measles virus** protein-host cell protein binding interactions, classified in class 435, subclass 5.

15 f. Group VI, claim(s) 49 and 50, drawn to an assay for identifying inhibitors of **respiratory syncytial virus** protein host cell protein binding interactions, classified in class 435, subclass 5.

20 g. Group VII, claim(s) 51, drawn to an assay for identifying inhibitors of **human immunodeficiency virus** protein-host cell protein binding interactions, classified in class 435, subclass 5.

25 h. Group VIII, claim(s) 52, drawn to an assay for identifying inhibitors of **herpes viridae** [sic: Herpesviridae] virus nucleoprotein-host cell protein binding interactions, classified in class 435, subclass 5.

30 i. Group IX, claim(s) 53, drawn to an assay for identifying inhibitors of **adenoviridae** [sic: Adenoviridae] protein-host cell protein binding interactions, classified in class 435, subclass 5.

j. Group X, claim(s) 54, drawn to an assay for identifying inhibitors of **bunyaviridae** [sic: Bunyaviridae] protein-host cell protein binding interactions, classified in class 435, subclass 5.

35 k. Group XI, claim(s) 55, drawn to an assay for identifying inhibitors of **arenaviridae** [sic: Arenaviridae] protein-host cell protein binding interactions, classified in class 435, subclass 5.

40 l. Group XII, claim(s) 56, drawn to an assay for identifying inhibitors of **orthomyxovirus-like protein**-host cell protein binding interactions, classified in class 435, subclass 5.

4. The inventions are distinct, each from the other because of the following reasons:

45 1. Inventions I-XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have

different functions, or they have different effects under 37 C.F.R. § 1.48 and 1.49. In the instant case each of the claimed methods employs different viral proteins (e.g., NP; M1; M2; obtained from different viral families/families (e.g., 5 Orthomyxoviridae; Arenaviridae; Retroviridae; Bunyaviridae; Adenoviridae; Herpesviridae; Paramyxoviridae; Lentiviridae, and genera (e.g., Paramyxovirus; Morbillivirus; Pneumovirus). These viruses are all genotypically and phenotypically distinct. Accordingly, each method will employ different viral and cellular proteins thereby necessitating separate and independent searches. 10 Therefore, each invention is clearly drawn toward a different inventive concept.

6. Because these inventions are distinct for the reasons given 15 above and have acquired a separate status in the art as shown by their different classification, requirement for independent searches, and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Claim Cancellation

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim 25 remaining in the application. Any amendment of inventorship must be accompanied by a timely-filed petition under 37 C.F.R. § 1.48(d) and by the fee required under 37 C.F.R. § 1.48(h).

Correspondence

8. The Art Unit location of your application in the Patent and Trademark Office has changed. To facilitate the correlation of related papers and documents for this application, all future correspondence should be directed to **art unit 1648**. 30

4. Correspondence related to this application may be submitted to
Group 1600 by facsimile transmission. The faxing of such papers
must conform with the notice published in the Official Gazette,
1996 OG 30 (November 15, 1996). Official communications should be
directed toward one of the following Group 1600 fax numbers: (703)
308-4242 or (703) 308-3014. Informal communications may be
submitted directly to the Examiner through the following fax
number: (703) 308-4426. Applicants are encouraged to notify the
Examiner prior to the submission of such documents to facilitate
their expeditious processing and entry.

11. Any inquiry concerning this communication should be directed
to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-
2227. The examiner can normally be reached Monday through Thursday
from 8:30 AM to 6:00 PM. A message may be left on the examiner's
voice mail service. If attempts to reach the examiner are
unsuccessful, the examiner's supervisors, Chris Eisenschenk, J.D.,
Ph.D., or Laurie Scheiner, can be reached at (703) 308-0452 or
(703) 308-1122, respectively. Any inquiry of a general nature or
relating to the status of this application should be directed to
the Group 1600 receptionist whose telephone number is (703) 308-
0196.

Respectfully,

Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1648

17 July, 1999

L. J. A.
L. J. A.
L. J. A.



RESTRICTION/ELECTION FACSIMILE TRANSMISSION

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